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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,207	02/13/2002	Timothy R. Hansen	42558	4797
7590 08/09/2005			EXAMINER	
David W. Highet, Esq. Becton Dickinson and Company 1 Becton Drive Franklin Lakes, NJ 07417			BELLAMY, TAMIKO D	
			ART UNIT	PAPER NUMBER
			2856	

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/073,207

Applicant(s)

HANSEN ET AL.

Examiner

Tamiko D. Bellamy

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-13 and 15-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1 and 3-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) 13, and 15-21 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 11-13, and 15-21 are withdrawn from further consideration pursuant to 37 CFR

1.142(b), as being drawn to a nonelected Groups II, III, IV, V, VI

Applicant's election with traverse of Group I in the reply filed on 6/9/05 is acknowledged.

The traversal is on the ground(s) that the inventions of Group I and II are related and therefore are not independent inventions as it can be shown that they have been disclosed as capable of use together and have the same mode of operations. **This is found persuasive.** Examiner will examine claims of Groups I and II, and claims 13, and 15-21 are withdrawn from further consideration.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, and 3-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Tolonen et al. (EP571100A1).

Re claim 1, as depicted in figs. 1-3, Tolonen et al. discloses measuring pressure (e.g., pressure sensor 40) in a nozzle. Tolonen et al. discloses acquiring a pipette tip (30) with the nozzle. Tolonen et al. discloses determining whether the pressure in the nozzle changes upon the acquisition of the pipette tip (30) (Pg. 2, lines 35-51; Pg. 3, lines 20-33). Tolonen et al. discloses detecting if the pipette tip (30) is not in place the pressure within the air space (60) the pressure within the air space (60) does not change (Pg. 3,

lines 29-33), which is equivalent to determining that an acquired pipette tip is defective if the pressure remains constant during the acquisition of the acquired pipette tip.

Re claim 3, Tolonen et al. discloses determining the need for replacement of a tip during a run (Pg. 7, line 47), which is equivalent to discarding the defective acquired pipette tip.

Re claims 4 and 5, Tolonen et al. discloses determining that the pipette tip (30) is non defective if there is a change in air pressure during the acquisition of the acquired pipette tip (30). (Pg. 3, lines 20-27).

Re claim 6, Tolonen et al. discloses determining the need for replacement of a tip during a run, and loosing the tip form the pipette (Pg. 7, lines 47-48), which is equivalent to discarding the non defective tip after the use of the pipette tip.

Re claims 7-10 as depicted in fig. 10, Re claim 3, Tolonen et al. discloses determining a maximum air pressure in the nozzle upon the acquisition of the pipette tip, and ascertaining the acquired pipette tip's condition based on the rate of change of air pressure after the maximum air pressure is reached (Pg. 5, lines 52-59).

Re claims 11 and 12, Tolonen et al. discloses determining when the tip (30) **is not in place** wherein the pressure in the air space (60) does not change (Pg. 3, lines 30-33). This inherently includes a situation where the pipette tip is partially attached with out being discarded. Therefore, Tolonen et al. inherently discloses that when there is no pressure change, the non-defective tip has not been discarded.

Conclusion

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4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamiko D. Bellamy whose telephone number is (571) 272-2190.

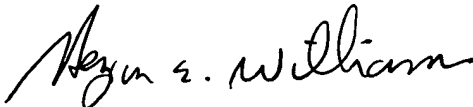
The examiner can normally be reached on Monday - Friday 7:30 AM to 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tamiko Bellamy

T.B.
August 4, 2005


HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
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